IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 21714 of 2007(I)

PETITIONERS:

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1. V.K.VARGHESE, S/O.LATE V.K.KURIAKOSE,
   AGED 59 YEARS, VYSIAMPARAMBIL HOUSE, KANDANADU.

2. FR.ISSAC MATTAMMEL, VICAR, S/O MATHAI, AGED 54 YEARS
   ST.MARY'S ORTHODOX CHURCH, KANDANAD.

BY ADV. SRI.BIJU ABRAHAM

RESPONDENTS:

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1. WILSON PAULOSE, NEDUMPURTHKUDILIL HOUSE,
   KUREEKAD P.O., VIA THIRUVANKULAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
   ERNAKULAM.

3. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
   THIRUVANANTHAPURAM.

BY ADV. SRI.K.J.KURIACHAN
SENIOR GOVERNMENT PLEADER SMT.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: A true copy of the judgment in F.A.O.4/2004 dated 10-01-2005 of this Hon'ble High Court.

Ext.P2: A true copy of the judgment in O.S.29/1976 dated 28.2.1997 of the 1st additional district court, Ernakulam.

Ext.P3: True copy of the order of the District Court, Ernakulam in I.A.No.3852/2006 in OS 36/76 dated 31.01.2007.

Ext.P4: True copy of the order dated 19.3.2005 of the 3rd respondent.

Ext.P5: True copy of the order in OP No.88/2004 dated 21.11.2005 of the 1st Additional District Court, Ernakulam.

Ext.P6: True copy of the order dated 7.7.2007 of the 2nd respondent.

Ext.P7: True copy of the appeal dated 12.7.2007 filed before the 3rd respondent.

Ext.P8: True copy of the judgment in O.S.30/97 dated 14.6.2005 of the 1st Addl. District Court, Ernakulam.

// True copy //

P.A. to Judge

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A.K.BASHEER, J.

W.P.(C)No.21714 OF 2007

Dated this the 19th day of July, 2007

JUDGMENT

Petitioner has impugned Ext.P6 order passed by District Educational Officer, Ernakulam in this writ petition. The issue involved in this case relates to management dispute in St.Mary's High School, Kandanad. Learned counsel submits that respondent no.1 is likely to make appointments in the school without any right whatsoever and in violation of the existing orders of the civil court.

2. Since petitioner has got an effective statutory remedy, I do not propose to deal with the contentions raised by him at this stage. Of course it is brought to my notice that petitioner has preferred Ext.P7 appeal before respondent no.3 along with a petition for stay. Learned counsel submits that petitioner will be satisfied, if a direction is issued to respondent no.3 to take a decision on Ext.P7 expeditiously. He further prays that in the meanwhile operation and implementation of Ext.P6 order may be stayed. In my view, petitioner has to move the appellate authority for grant of interim orders. As mentioned earlier,

petitioner has already filed a petition for stay before the appellate authority. It will be open to the petitioner to make a motion in this regard before the appellate authority.

In the above facts and circumstances, this writ petition is disposed of with a direction to respondent no.3 to consider and pass orders on Ext.P7 strictly on its merit and in accordance with law as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. Appellate authority shall ensure that petitioner, respondent no.1 and all others who are concerned with the affairs of the institution are afforded sufficient opportunity to be heard before any decision is taken in the matter. Respondent no.3 shall also consider and pass appropriate orders on the stay petition which is stated to have been filed by the petitioner along with the revision petition. This shall be done as and when motion is made in this regard and that too after hearing the parties concerned.

A.K.BASHEER, JUDGE

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